

Remarks/Arguments:

Claims 1-27 were pending in the application at the time of the office action, and claims 21-27 are withdrawn from consideration. Claims 11 and 12 are amended herewith for clarity, and new claims 30-33 are added to recite features deleted from claims 11 and 12.

Rejection of Claims

Claims 1-20 are rejected under 35 USC § 103(a) as unpatentable over WO 01/92000 A1 ("Lin") in view of U.S. 4,515,841 ("Dyke").

Lin describes an air permeable composite film which is indicated to be suitable for microwave heating. The composite film comprises a polymer layer and a sealing layer, wherein the polymer layer is perforated (page 3, lines 26 to 31). Lin describes that the sealing layer provides "water-repelling abilities" (page 4, line 12). Upon heating in a microwave, the vapour pressure inside the bag rises so that the gaps in the polymeric layer behave as a pressure-releasing valve. There is no mention of the sealing layer being water-soluble. Indeed, it is indicated to provide a water-repelling surface (page 4, line 12). A further important point to note is that Lin specifies that the composite film is re-useable, and that after cooking and cooling the vents are once again sealed.¹

The Examiner is of the view that the skilled person would have looked to Dyke and that upon reading this document, he/she would have been directed to use a water-soluble polymer to form the sealing layer.

Dyke is concerned with providing a receptacle for handling contaminated waste. Dyke teaches the use of a film which has embedded therein materials which will form pores upon exposure to steam sterilization. The materials swell upon exposure to the steam and rupture the polymeric web within which they are contained. The materials which are embedded within the film are indicated to be meltable materials or water-soluble materials. Thus, while the system described in Dyke is entirely different from the system described in Lin in that it includes a single layer instead of two, Applicants understand the Examiner's position to be that Dyke teaches that meltable materials and water-soluble materials are equivalents which serve the same function. However, to suggest that the skilled person would use Dyke's teaching to modify the teaching of Lin and arrive at the present invention

¹ Lin page 11, lines 23 to 25; page 14, lines 29 to 33; page 15, line 27 to page 16, line 7; and claim 1)

requires improperly considering this equivalence point in isolation, without considering the rest of the specific teaching of Lin. This is not how the skilled person would have worked.

In this regard, there are a number of reasons why the skilled person would not have arrived at the claimed subject matter after reading Lin and Dyke. At the outset, it should be noted that Lin is not actually an appropriate starting reference. In this regard, it is clear that the present application is concerned with providing a film which has a water-soluble barrier layer and that this is an important feature of the invention. Indeed, page 12, lines 4 to 5 of the application is specific in requiring that the barrier layer is completely or partially soluble in water. In contrast, Lin is specific in requiring that the sealing layer provides the air permeable composite film with water-repelling properties (page 4, lines 11 to 12; page 5, line 2; page 10, line 30; page 11, line 1 and page 18, lines 1 to 2). This being the case, the present invention and Lin are concerned with different technologies and it is incorrect to state that the skilled person would consider Lin an appropriate starting point.

In any event, even if the skilled person had started with Lin and combined this with the teaching of Dyke, the product resulting from this modification would not have enjoyed a reasonable expectation of success in achieving Lin's explicitly stated objectives. In this regard, in order to arrive at the present invention, the skilled person would have had to destroy **two** key properties of the films described in Lin.

Firstly, as noted above Lin is clear in its requirement that the sealing layer provides **water-repellency**. A sealing layer cannot be both water-soluble and water-repellent. Therefore, if the skilled person were to have used a water-soluble material for Lin's sealing layer, he/she would have been going directly against Lin's stated objective. Accordingly, the skilled person could not have replaced Lin's melttable and water-repellent layer with a water-soluble layer, with an expectation of success.

Secondly, Lin also emphasizes that her film is **re-useable**. In particular, page 15, lines 27 to 31 describes that after heating, the packaging bag returns to room temperature which has the effect of the molten sealing material solidifying and re-sealing the perforations in the substrate such that the **sealing abilities of the sealing material return**. If the temperature sensitive material of the sealing layer of Lin were replaced with a water-soluble material then this feature, which is clearly important to Lin's invention, would be destroyed. Once the water-soluble layer comes into contact with steam, it will dissolve and this process is not reversible since the dissolved material will then flow and no longer cover the perforations. While the resulting permanence of the openings would not be

a problem for Dyke, whose objective is merely to destroy infectious materials in his bag², permanent openings would render Lin's film unfit for its intended use. Hence, this is a second reason why the skilled person would not have arrived at the present invention by combining Lin with Dyke.

Thus, even if one were to accept the proposition that Dyke discloses water-soluble materials as an alternative to meltable materials for purposes of his invention, the skilled person would not have found a water-soluble material equivalent to a meltable one for the purpose of Lin's invention, or indeed even suitable at all. Thus, it would not have been obvious to make this substitution, as would have been required to arrive at Applicants' invention.

Finally, in the interest of maintaining a clear and accurate record, Applicants note that the Office Action is mistaken in stating that Dyke teaches the skilled person to use a polymer that expands and dissolves due to heating of a water-containing substance in a package.³ Rather, Dyke teaches the reader to use a material that swells and dissolves "...due to the elevated temperatures and moisture of the steam sterilization process ...".⁴

Applicants respectfully request reconsideration and allowance of the pending claims, and invite the Examiner to contact their representative, Frank Tise, if it appears that this may expedite examination.

Respectfully submitted,



Rex A. Donnelly, Reg. No. 41,712
Frank P. Tise, Reg. No. 50,379
Attorney and Agent for Applicants

FPT/jm

Dated: August 2, 2010

Ratnerprestia
P.O. Box 1596
Wilmington, DE 19899
(302) 778-2500

The Director is hereby authorized to charge or credit Deposit Account No. **18-0350** for any additional fees, or any underpayment or credit for overpayment in connection herewith.

² Dyke column 1, lines 5-16 and 52-55

³ Office Action page 3, lines 7-10

⁴ Dyke column 3, lines 5-8